

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CF1013
)	EEOC NO.: 21BA90071
EMILY SCRIPP)	ALS NO.: 10-0148
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of two, Commissioners Rozanne Ronen and Nabi Fakroddin presiding, upon Emily Scripp's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CF1013; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, **WHEREFORE**, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following:

1. On September 19, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged the Chicago Police Department, Education and Training Division ("CPD") discharged her because of her sex, female, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On January 26, 2010, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On March 1, 2010, the Petitioner filed this timely Request.
2. On April 28, 2008, the CPD hired the Petitioner worked as a Probationary Police Officer ("PPO").
3. CPD's Education and Training Policy requires PPOs to take and pass a Peace Officer Wellness Evaluation Report ("P.O.W.E.R. test"). Failure to pass the P.O.W.E.R. test will lead to separation from the CPD. The P.O.W.E.R. test is administered three times during the PPO's

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

training. If a PPO fails to pass any of the three tests, the PPO is given a maximum of two re-tests for the failed test.

4. CPD administered the first P.O.W.E.R. test to the Petitioner on May 2, 2008, which she failed. The Petitioner took her first re-test on May 22, 2008, which she failed. The Petitioner took her second re-test on June 9, 2008, which she failed. Thereafter, the CPD discharged the Petitioner on June 27, 2008.
5. The Petitioner alleged in her charge that she was discharged on June 27, 2008, because of her sex. The Petitioner further alleged that similarly situated male PPOs were treated more favorably than the Petitioner under similar circumstances.
6. In the Petitioner's Request, the Petitioner argues that the Respondent's investigator did not interview her witnesses, nor accept into evidence her witnesses' affidavits or sworn deposition testimony. The Petitioner further argues she had evidence the CPD, via its Assistant Deputy Superintendent, had falsified its stated reason for terminating other female recruits. The Petitioner contends the Respondent did not permit her to provide evidence of the Assistant Deputy Superintendent's sexism. Finally, the Petitioner states that she had also alleged disability discrimination but the Respondent neither investigated this allegation nor permitted the Petitioner to present evidence relevant to this allegation of disability discrimination.
7. In its Response, the Respondent asks the Commission to sustain the dismissal of the Petitioner charge for Lack of Substantial Evidence. The Respondent argues that there was no substantial evidence that similarly situated male PPOs were treated more favorably than the Petitioner under similar circumstances. The Respondent determined the CPD had fired four male PPOs for failing the P.O.W.E.R. test. Further, the Respondent states the Petitioner never alleged disability discrimination in her charge, that she is raising claims of disability discrimination for the first time in her Request, and that the Commission cannot consider new claims of discrimination raised for the first time in a request for review.

CONCLUSION

The Commission concludes the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

The Commission concludes there is no substantial evidence of sex discrimination because the Respondent determined the CPD had also discharged male PPOs who had failed the P.O.W.E.R.

test. There is no substantial evidence the CPD treated male PPOs more favorably under similar circumstances.

In her Request the Petitioner alleges the Respondent's investigation omitted reference to her disability claim. The Petitioner's charge does not contain an allegation of disability discrimination. The Commission is limited to the allegations contained in the original charge. See Deen v. Lustig, 337 Ill.App.3d 294, 305-06, 785 N.E.2d 521, 531-32 (4th Dist., 2003). Therefore, the Commission cannot consider this allegation which was raised for the first time in the Petitioner's Request.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and, the Chicago Police Department, Education and Training Division as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 13th day of October 2010.

Commissioner Rozanne Ronen

Commissioner Nabi Fakroddin